

DOCUMENT RESUME

02675 - [A1732752]

[Amendment to Request for Proposals Protested]. B-187977. June 10, 1977. 2 pp.

Decision re: Systems Engineering Associates Corp.; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Office of the General Counsel: Procurement Law I.

Budget Function: National Defense: Department of Defense -

Procurement & Contracts (058).

Organization Concerned: Department of the Navy: Naval Supply Center, Norfolk, VA; Value Engineering Co.

Authority: A.S.P.R. 2-407.8(b)(3)(iii). A.S.P.E. 3-805.4. 4

C.F.R. 20.4. 40 Comp. Gen. 35. B-185000 (1976).

Protester objected to an amendment to the request for proposals and the subsequent award of the contract to another contractor. Procuring agency was responsible for determining the needs of the Government, and its award of the contract to another contractor, notwithstanding the protest, was proper and authorized. The protest was denied. (QM)

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DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-157977

DATE: June 10, 1977

MATTER OF: Systems Engineering Associates Corporation

DIGEST:

1. Absent clear showing of favoritism or unreasonableness, GAO will not object to amendment to RFP and recompetition following receipt of best and final offers, since responsibility for determining needs of Government and whether technical proposals meet Government requirements is vested in procuring agency.
2. Determination that immediate award notwithstanding protest filed with GAO would be advantageous to Government pursuant to ASPR § 2-407.8(b)(3)(iii) (1976 ed.) is consonant with Bid Protest Procedures in 4 C.F.R. § 20.4 (1977) allowing award where procurement regulations permit.

Systems Engineering Associates Corporation (SEACOR) protests an amendment to request for proposals (RFP) No. N00189-76-R-0090 issued by the Naval Supply Center (NSC), Norfolk, Virginia, for design and technical services to prepare overhaul work packages for repair and alteration of amphibious ships. The amendment (0006) made a substantial shift in labor hours from junior to senior engineer technicians. SEACOR asks that we direct an award on the basis of the best and final offers received by NSC pursuant to amendment 0005. NSC has made the award to Value Engineering Company notwithstanding SEACOR's protest to our Office and SEACOR questions this as well.

SEACOR states that "[i]t is obvious that with the previously submitted best and final rates that the low bid contractor was automatically identified to the Contracting Officer by the changes effected under Amendment 0006." Thus, SEACOR is alleging favoritism on the part of procuring officials in restructuring the solicitation to benefit one particular offeror in light of the best and final offers received following amendment 0005. NSC interprets the allegation as referring to Q.E.D. Systems, Inc. (QED). However, the allegation is refuted by three facts. First, QED also protested the amendment. (We note that QED withdrew the protest following notification of award to Value Engineering.) Second, Value Engineering--not QED--received the award. Third, no offeror was bound to its prior

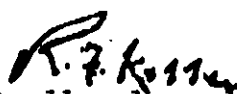
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price proposal and each had an opportunity to revise its proposal and submit another best and final offer following the issuance of amendment 0006 in accordance with Armed Services Procurement Regulation (ASPR) § 3-805.4 (1976 ed.). Therefore, SEACOR fails to make a showing of favoritism.

SEACOR also questions the accuracy of NSC's statement of its technical needs in amendment 0006. SEACOR argues that a more realistic projection is reflected in the RFP as amended through amendment 0005. We have held, however, that the responsibility for determining the needs of the Government and whether technical proposals meet the Government's requirements is vested in the procuring agency. 40 Comp. Gen. 35 (1960); Boston Pneumatics, Inc., B-185000, May 27, 1976, 76-1 CPD 345. SEACOR argues, and NSC admits, that the usage rate under amendment 0006 appears unusual considering the type of work normally required under similar contracts. NSC points out, however, that each procuring activity has a different mix of ships to be supported and that, because of the variety of ships to be supported in this procurement, it was determined that the additional experience specified for senior engineer technicians has proven to be more cost effective than using the less experienced junior engineer technicians. SEACOR fails to show that this conclusion in support of amendment 0006 is unreasonable. We, therefore, have no basis to question the reasonableness of amendment 0006 in stating NSC's needs under this procurement.

NSC determined that an immediate award to Value Engineering would be advantageous to the Government pursuant to ASPR § 2-407.8(b)(3)(iii) (1976 ed.) and made the award notwithstanding SEACOR's protest. Our Bid Protest Procedures in 4 C.F.R. § 20.4 (1977) allow for such an award where the procurement regulations permit it. Therefore, NSC acted within its authority in making the award notwithstanding the protest to our Office.

The SEACOR protest is accordingly denied.


Deputy Comptroller General
of the United States